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TO RUEHC/SECSTATE WASHDC IMMEDIATE 1058
INFO RUCNMEM/EU MEMBER STATES COLLECTIVE PRIORITY
RUEHKA/AMEMBASSY DHAKA PRIORITY 2223
RUEHIL/AMEMBASSY ISLAMABAD PRIORITY 9245
RUEHKT/AMEMBASSY KATHMANDU PRIORITY 7500
RUEHLO/AMEMBASSY LONDON PRIORITY 5344
RUEHNE/AMEMBASSY NEW DELHI PRIORITY 3655
RUEHNY/AMEMBASSY OSLO PRIORITY 5269
RUEHOT/AMEMBASSY OTTAWA PRIORITY 0130
RUEHSM/AMEMBASSY STOCKHOLM PRIORITY 0804
RUEHKO/AMEMBASSY TOKYO PRIORITY 4391
RUEHCG/AMCONSUL CHENNAI PRIORITY 9805
RUEHBI/AMCONSUL MUMBAI PRIORITY 7096
RUEHON/AMCONSUL TORONTO PRIORITY 0125
RHEFDIA/DIA WASHINGTON DC PRIORITY
RUEHGV/USMISSION GENEVA PRIORITY 3967
RHHMUNA/HQ USPACOM HONOLULU HI PRIORITY
RUEHBS/USEU BRUSSELS PRIORITY
RHEHAAA/NATIONAL SECURITY COUNCIL WASHINGTON DC PRIORITY
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C O N F I D E N T I A L SECTION 01 OF 03 COLOMBO 001180

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DEPARTMENT FOR SCA/INSB

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SUBJECT: ACCOUNTABILITY: FONSEKA STIRS UP HORNETS' NEST

COLOMBO 00001180 001.4 OF 003

Classified By: AMBASSADOR PATRICIA A. BUTENIS. REASONS: 1.4 (B, D)

11. (C) SUMMARY: The committee appointed by the president to look into allegations raised in the Department's October 21 incidents report to Congress will not issue a public report but rather a recommendation memo for President Rajapaksa's consideration. Although Sarath Fonseka was quoted as accusing Gothabaya Rajapaksa of ordering Sri Lankan troops to kill LTTE leaders attempting to surrender, he quickly backtracked after heavy criticism from the president and his allies and may avoid similar accountability issues during the presidential election campaign. Tamil MP Sivajilingam broke from his TNA colleagues and submitted his own name as a presidential candidate, saying among other things, there should be an international inquiry into the deaths of Tamils during the war. Rather than pushing accountability for possible war crimes and human rights violations, Fonseka may try to push anti-corruption as a major campaign theme, attempting to appeal to all ethnic groups. END SUMMARY.

RESPONSE TO INCIDENTS REPORT

12. (C) President Rajapaksa formed a committee in early November to look into the allegations of violations of international humanitarian law raised in the State Department's "Report on Incidents" of October 21, 2009. This committee is expected to issue their report on December 31, 2009, but Ambassador was recently cautioned by Foreign Minister Bogollagama not to expect too much from this initial action. Bogollagama said rather than a full-scale response that is released to the public, the committee would send an advisory memo to President Rajapaksa, making recommendations on what items in the report merit further action and what action might be best. The president would then consider those recommendations and decide how to proceed. Bogollagama appeared keenly interested in recent U.S. Appropriations language requiring a follow-up report to the State

Department's October 21, 2009, report on incidents at the end of the war.

FONSEKA OPENS UP PANDORA'S BOX

13. (C) After the president's announcement of the formation of the committee in October, the issue of accountability for possible war crimes received little attention in Sri Lanka. Most people appeared to think either that civilian casualties were an unfortunate but unavoidable consequence of a war on terrorism or that, even if crimes were committed, there was little that could be done as long as the Rajapaksas remained in power. General Fonseka thrust the topic onto the national scene, however, in a December 13 interview published in the local Sunday Leader newspaper, in which he said Defense Secretary Gothabaya Rajapaksa had ordered troops from the 58th Division to kill any remaining LTTE leaders, in particular Pulidevan, Nadesan and Ramesh, in spite of a reported attempt by them to surrender. This interview was immediately met by a firestorm of criticism from the government and its allies, accusing Fonseka of egregiously betraying his country and exposing its "loyal, courageous soldiers" to war-crimes investigations and the possibility of being arrested when traveling overseas. Walking the tightrope of courting both Tamil votes and nationalist Sinhala voters, Fonseka backed off his statement two days later, saying he had been misquoted, and that he would take full responsibility for anything done by his troops at the end of the war. Criticism of him by Rajapaksa allies nevertheless continued unabated, with some saying that Fonseka had damaged Sri Lanka's reputation in the international community. Former Sri Lankan Navy Commander

COLOMBO 00001180 002.4 OF 003

Wasantha Karannagoda, for example, said on December 23 on state media that Fonseka's comments jeopardized the Sri Lankan military's chances at obtaining coveted UN peacekeeping operations assignments in Haiti and elsewhere.

14. (C) UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions Philip Alston reportedly has sent a letter to the GSL requesting more information on the alleged incident involving the three LTTE chiefs. In the government's own backtracking exercise, Secretary of the Ministry of Disaster Management and Human Rights Rajiva Wijesinghe has reportedly sent a letter back to Alston clarifying that since Gen. Fonseka subsequently retracted his statement, there was no longer a need for Alston's request. Although local media has reported this development, it is unlikely that Wijesinghe's argument will stop either the UN's interest in this alleged incident or the attacks on Fonseka by the Rajapaksa camp.

SIVAJILINGAM DEMANDS JUSTICE FOR TAMIL DEAD

15. (C) TNA member of parliament M.K. Sivajilingam, who recently broke with his party to present himself as a candidate for the presidential elections, raised the need for an international inquiry into civilian deaths and injuries during the war as a primary theme of his campaign. The leadership of the TNA has not pressed either candidate on this publicly. TNA leader P. Sampanthan on the other hand told Assistant Secretary Blake and Post that while he was concerned with the accountability issue, he believed it was both unrealistic to expect the government to do anything about it and dangerous for the Tamil leadership in Sri Lanka to raise the issue publicly. Nevertheless, he believed it was important for the government eventually to take some steps towards accountability if it were to achieve meaningful national reconciliation.

ANTI-CORRUPTION AS THE NEW ACCOUNTABILITY?

¶6. (C) After ten days of brutal hits on his statements about the killing of the LTTE leaders, General Fonseka may be less likely to bring up specific human rights incidents that are related to the ethnic divide and instead may talk more about general political reconciliation and the way ahead. Fonseka appears to be hoping that anti-corruption emerges as a touchstone and has attempted to paint the Rajapaksas as a family-based kleptocracy, giving out hundreds of jobs to distant family members, building grand houses for themselves, extorting vast sums of money from the country, and fostering a culture of corruption throughout the government. The president, however, may be relying on his own internal polling, which we understand from sources in the president's office indicates that while a majority of voters know the Rajapaksa family is corrupt, they still would vote for him as the more experienced politician who does what he says he will do.

COMMENT

¶7. (C) As Sri Lanka tries to move beyond the war, accountability for possible crimes remains a significant, though secondary, issue in Sri Lanka. Whether speaking of accountability for ongoing human rights abuses or for incidents occurring during the final stages of the war, the issue had not received much attention from either the government or the public before the recent flurry of activity following Fonseka's statement. Given their possible involvement in most if not all incidents investigated, top

COLOMBO 00001180 003.4 OF 003

government leaders, in particular the Rajapaksa brothers, have not pushed for greater accountability. Indeed, given the risk of exposing his own involvement, it was surprising to many that Fonseka attempted to raise this as a campaign issue, and he will probably not do so again. We are unaware of any cases in which a sitting government has undertaken wholesale investigations of its own troops or leadership for alleged war crimes, and it is probably unrealistic to expect the current Sri Lankan government to do so. Nevertheless, at some point Sri Lankans will need to find a way to deal with the accountability issue to achieve national reconciliation and lasting peace.
BUTENIS